

**Form of Constellation Energy - ComEd Carbon Mitigation Credit Agreement, Posted by the Illinois Power Agency on November 15, 2021**

## CARBON MITIGATION CREDIT AGREEMENT

THIS CARBON MITIGATION CREDIT AGREEMENT (the “CMC Contract”) is entered into as of this \_\_\_\_ day of December\_\_\_\_, 2021 (the “Effective Date”), by and between \_\_\_\_\_ (“Seller” or “Party A”) and Commonwealth Edison Company (“Buyer” or “Party B”). Each of Seller and Buyer is sometimes referred to herein as a “Party” or collectively as the “Parties.”

### RECITALS

**WHEREAS**, the Illinois Power Agency (“IPA”) issued a Request for Proposal (the “RFP”) for Carbon Mitigation Credits (“CMCs”) for which bid results were approved by the Illinois Commerce Commission on \_\_\_\_\_ December, 2021;

**WHEREAS**, Seller was a winning bidder with respect to the Facility selected through the RFP;

**WHEREAS**, pursuant to the RFP, Buyer and Seller agreed to enter into this CMC Contract to set forth the terms and conditions of the Transaction entered into by the Parties; and

**WHEREAS**, each of Buyer and Seller believes it is in its best interest to enter into this CMC Contract;

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the mutual agreements contained in this CMC Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Master CMC Agreement.**

a. Except as otherwise expressly set forth in this CMC Contract (and as otherwise amended, supplemented and modified herein), this CMC Contract shall be subject to and governed by all the terms and conditions from the form of the agreement entitled “Master Renewable Energy Certificate Purchase and Sale Agreement” attached hereto as Exhibit C (hereinafter the “Master CMC Agreement”) and such terms, as modified hereby, are incorporated herein by reference. For purposes of the definitions contained in the Master CMC Agreement, this CMC Contract shall constitute the “Transaction” and the “Cover Sheet,” and the “Effective Date” shall constitute the “Trade Date.” Capitalized terms used and not otherwise defined herein shall have the same meaning as in the Master CMC Agreement.

b. If the Parties have entered into another agreement that governs transactions other than the Transaction set forth in this CMC Contract, such other agreement shall not apply for the purposes of the Transaction confirmed under this CMC Contract, and this CMC Contract shall be treated as separate and stand-alone from all other transactions between the Parties. This CMC Contract shall apply solely for purposes of the Transaction specified herein and shall not apply for the purposes of any other transactions between the Parties. The terms of the Transaction are specified in this CMC Contract and there shall be no separate Confirmation or Product Order confirming the terms of the Transaction. References to “Confirmation” or “Product Order” in the Master CMC Agreement shall refer to this Cover Sheet.

2. **Additional Definitions.**

a. For purposes of Deliveries and payment, the following definitions shall apply:

- (i) “CMC Monthly Price” with respect to a particular Vintage means the price for CMCs specified in the Payment Calculation Notice for such Vintage as calculated by the IPA and issued to Buyer and Seller. The CMC Monthly Price for a month

shall be applicable to all Delivered CMCs that have a Vintage of such month. The CMC Monthly Price shall be calculated consistent with the methodology set forth in the Carbon Mitigation Credit Procurement Plan as approved by the Illinois Commerce Commission in ICC Docket No. 21-0718.

- (ii) “Delivery Month” means any of the calendar monthly periods within the Delivery Term for which CMCs are Delivered.
- (iii) “Delivery Term” means the period starting on June 1, 2022 and ending on July 31, 2027, unless extended due to delays in the issuance or delays in transfer of CMCs by the Tracking System. Notwithstanding the foregoing, the Delivery Term shall end no later than October 31, 2027.
- (iv) “Delivery Year” means the twelve (12) calendar months beginning with June of one calendar year through and including May of the following calendar year; provided that the first Delivery Year shall be deemed to be the period beginning on June 1, 2022 through May 31, 2023.
- (v) “Delivery Year Actual Generation” means with respect to a Delivery Year, the actual generation of the Facility that occurred during such Delivery Year on a MWh basis, which shall be calculated using the hourly generation data provided by Seller for each month of such Delivery Year.
- (vi) “Delivery Year Projected Generation” means with respect to a Delivery Year, the generation of the Facility projected for such Delivery Year on a MWh basis as specified in Table 1 of the Cover Sheet as such information is provided by Seller during the RFP process.
- (vii) “Delivery Year Performance” means with respect to a Delivery Year, the measure calculated by the IPA within thirty (30) days following such Delivery Year, and which is used to determine if the Facility has met the Minimum Delivery Commitment for such Delivery Year. The Delivery Year Performance shall be the sum of the Delivery Year Projected Generation for the Delivery Years in which there is not yet any Delivery Year Actual Generation plus the Delivery Year Actual Generation of Delivery Years in which Delivery Year Actual Generation exists across each of the five Delivery Years from June 1, 2022 through May 31, 2027, divided by 5, and rounded down to the nearest integer.
- (viii) “Facility” means the nuclear reactor generating unit owned by Seller, which Pnode ID is identified in Table 1 of the Cover Sheet, that was selected through the RFP and from which the Product is sourced.
- (ix) “Minimum Delivery Commitment” means the annual average generation of the Facility that Seller is committed to operate during the period June 1, 2022 through May 31, 2027 as specified in Table 1 of the Cover Sheet. For avoidance of doubt, the Minimum Delivery Commitment shall equal the multiplicative product of (a) 88%, (b) 8,760, and (c) the Facility’s Unit Summer Capacity (MW), rounded down to the nearest integer.
- (x) “Payment Calculation Notice” means a notice that is issued by the IPA to Buyer and Seller within twenty-five (25) days of the end of each month of the period from June 1, 2022 through May 31, 2027 containing information related to the CMC Monthly Price of such month that has concluded. For the avoidance of doubt, the first Payment Calculation Notice shall be issued no later than July 25, 2022 related to the

CMC Monthly Price associated with CMCs that have a Vintage of June 2022.

- (xi) “Shortfall CMC Quantity” means, with respect to a Delivery Year where the Delivery Year Performance is less than the Minimum Delivery Commitment, the result obtained by subtracting such Delivery Year Performance from the Minimum Delivery Commitment.
- (xii) “Shortfall Payment Amount” means, with respect to a Delivery Year where the Delivery Year Performance is less than the Minimum Delivery Commitment, the lesser of: (a) the Collateral Requirement and (b) the result obtained by multiplying such Delivery Year’s bid price as indicated in Table 1 of the Cover Sheet and the Shortfall CMC Quantity.
- (xiii) “Subsidy” or “Subsidies” means, with respect to the period from June 1, 2022 through May 31, 2027, any federal tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits, direct payments, or similar subsidy programs that support carbon-free generation from any unit of government applicable to the Facility and for which Seller is eligible to apply for in relation to the Facility.
- (xiv) “Unit Summer Capacity (MW)” means the unit summer capacity for the Facility as specified in Table 1 of the Cover Sheet and indicated by Seller in the RFP.
- (xv) “Vintage” means, with respect to each CMC, the month in which the applicable electricity generation occurred. For the avoidance of doubt, this definition shall also replace the definition of “Vintage” in the Master CMC Agreement.

### 3. **Product**

- a. This CMC Contract is for Delivery of CMCs only and is not for energy or capacity or requiring physical delivery of such energy or capacity.
- b. All CMCs Delivered shall be from net generation of electricity from the Facility delivered to the grid.
- c. No payment shall be due for any CMC(s) that are related to net generation of electricity that occurred prior to June 1, 2022 or occurs after May 31, 2027 (such CMCs, “Ineligible CMCs”). Seller shall have no obligation to Buyer with respect to any Ineligible CMCs.
- d. Subject to Section 11 of the Cover Sheet, all CMCs that are related to net generation of electricity from the Facility delivered to the grid that occurred during the period June 1, 2022 through May 31, 2027 must be Delivered to Buyer via an irrevocable Standing Order.
- e. Each Delivery of a CMC shall be deemed a representation by Seller that the Product meets the requirements of this CMC Contract and the Applicable Program.
- f. Buyer is under no obligation to return any Delivered CMCs to Seller regardless of whether payment is due to Seller for such CMCs or not.
- g. All CMCs Delivered will be retired by Buyer. Buyer shall use commercially reasonable efforts to retire CMCs within one (1) month of such CMCs being Delivered. For avoidance of doubt, neither the transfer of title nor the retirement of a CMC in the Tracking System obligates Buyer to make payment to Seller or Seller to make payment to Buyer for such CMCs.

4. **Minimum Delivery Obligation.**

With respect to each Delivery Year in the Delivery Term, the Facility's Delivery Year Performance must equal or exceed the Minimum Delivery Commitment. Failure of the Facility's Delivery Year Performance to meet the Minimum Delivery Commitment shall constitute an Event of Default. For avoidance of doubt, the Delivery Year Performance and Minimum Delivery Commitment shall be adjusted to account for any Suspension Period. The IPA shall determine if the Facility has met this requirement within thirty (30) days following the end of the Delivery Year. If it is determined by the IPA that the Facility has failed to meet this requirement, then IPA shall provide written notice of such failure to Buyer and Seller, and the Buyer shall notify the Seller of the Event of Default within ten (10) Business Days of receipt of such notice from the IPA.

Upon notifying the Seller of the occurrence of such Event of Default, Seller shall have ten (10) Business Days to either demonstrate to the satisfaction of each of IPA and Buyer in their respective sole discretion, that such Event of Default has not occurred, or to effect a cure by making a payment in the amount of the Shortfall Payment Amount. For the avoidance of doubt, if Seller cures such Event of Default by making payment in the amount of the Shortfall Payment Amount in a timely manner, then the Event of Default shall cease to be an Event of Default upon such payment. If Seller fails to demonstrate that such Event of Default has not occurred or fails to cure the Event of Default within ten (10) Business Days of Seller's receipt of Buyer's notice, then Buyer shall terminate this CMC Contract.

If Seller cures such Event of Default by making payment in the amount of Shortfall Payment Amount, then for purposes of calculating the Delivery Year Performance in future Delivery Years, the Delivery Year Actual Generation associated for the Delivery Year that failed to meet the Minimum Delivery Commitment shall be deemed to equal to the sum of the (a) Delivery Year Actual Generation and (b) the result obtained by multiplying the Shortfall CMC Quantity by five (5).

For such Event of Default (provided such Event of Default is not cured by Seller in accordance with the foregoing), Buyer shall be entitled to payment by Seller in the amount of the Collateral Requirement and any outstanding amounts that are due to Buyer related to the Delivery of CMCs or related to the value of any monetized Subsidy received by Seller. The Parties acknowledge that (A) Buyer shall be damaged by the failure of Seller to meet the Minimum Delivery Commitment, (B) it would be impracticable or extremely difficult to determine the actual damages resulting therefrom, (C) the remedies specified herein are fair and reasonable and do not constitute a penalty and (D) the remedies specified in this section shall be Buyer's sole and exclusive remedy in such Event of Default.

5. **Reporting Requirements.**

a. Seller shall, on a monthly basis, provide to Buyer and the IPA (i) hourly KWh generation data applicable to the pricing node ("Pnode") ID of the Facility and (ii) hourly day-ahead location marginal prices applicable to the Pnode ID of the Facility for each calendar month in the period from June 1, 2022 through May 31, 2027 within ten (10) Business Days of the end of each such month. This information provided shall be rounded to the sixth (6th) decimal place and shall be provided in Microsoft Excel format. The information provided will be considered final and will not be subject to reconciliation once it is verified for use for calculating the CMC Monthly Price by the IPA. For purposes of verification, Buyer and the IPA shall be granted read-only access of information for the Facility by Seller within PJM Power Meter system; such data shall be treated and maintained as confidential and proprietary by the IPA and Buyer.

b. Seller shall provide to Buyer and the IPA written notice within ten (10) Business Days of its application submission for a Subsidy detailing the nature and value of such monetized Subsidy.

c. In the event that federal legislation is enacted or PJM market rules change is effected to accommodate any Subsidy, Seller shall notify IPA and the Illinois Commerce Commission of any such

changes. Notwithstanding the foregoing, the Parties acknowledge that upon recognition of a credit or Subsidy or potential credit or Subsidy by the IPA through Seller or on its own, IPA will file notice of a credit or Subsidy with the Illinois Commerce Commission in Docket No. 21-0718, which may take the form of a compliance filing outlining the necessary changes to the CMC pricing calculation to include a line item representing the price adjustment in \$/MWh or take the form of a petition to reopen the Carbon Mitigation Credit Procurement Plan approval proceeding in Docket No. 21-0718 to allow for the development of the record necessary for determining any CMC price change or payment adjustment. The Parties agree for future amendments to this CMC Contract to comply with any future Illinois Commerce Commission Order on Reopening related to the foregoing.

d. With respect to each Delivery Year from June 1, 2025 through May 31, 2026 and Delivery Year from June 1, 2026 through May 31, 2027, if the minimum offer price applicable to the Facility due to the Minimum Offer Price Rule by PJM exceeds the clearing price applicable to the ComEd zone of the PJM Base Residual Auction, then Seller must provide notice of this fact to the IPA and the Illinois Commerce Commission through a filing made in the proceeding approving the Carbon Mitigation Credit Procurement Plan in Docket No. 21-0718 and accompanied by a verified statement to this effect from an officer of Seller. For each such Delivery Year, Seller shall work constructively with the Illinois Commerce Commission in ensuring that the Illinois Commerce Commission has all information necessary for making a determination of whether the capacity price should indeed be zero in the CMC price formula set forth in Section 1-75(d-10)(3)(C)(iii)(II) of the IPA Act.

e. Unless specified otherwise, information required in this section shall be provided to the appropriate contact listed on the Notice Section of the Cover Sheet.

## 6. **Payment.**

a. The CMC Monthly Price of each CMC Delivered will be based on the Vintage of such CMC as recorded by the Tracking System.

b. The CMC Monthly Price may be either positive or negative. Payment shall be made from Buyer to Seller if the CMC Monthly Price is positive and payment shall be made from Seller to Buyer if the CMC Monthly Price is negative. In instances in which a Party disputes the CMC Monthly Price calculated by the IPA, the Party has from the time the IPA issues notice to Buyer and Seller until the end of that month to request review of the pricing calculations. Pricing disputes may only be raised for differences greater than positive/negative 5% of the CMC Monthly Price calculated by the IPA.

c. Payment shall be made only for CMCs of Vintages between June 1, 2022 and May 31, 2027 (inclusive) that have been Delivered by Seller to Buyer.

d. For each Delivery Month, Seller will render to Buyer an invoice for CMCs by electronic mail on or before the 20th day of the month immediately following each Delivery Month<sup>1</sup>. For avoidance of doubt, Seller shall invoice Buyer regardless of whether the CMC Monthly Price is positive or negative. Notwithstanding, and subject to the foregoing, Seller may request that Buyer issue an invoice to Seller if the CMC Monthly Price is negative for documentary purposes. All invoices under this CMC Contract shall be due and payable on the last Business Day of the month in which the invoice is rendered or the last Business Day of the following month if the invoice is rendered late and cannot be processed by the last Business Day of the month in which the invoice is rendered. If in a Delivery Month, CMCs that are Delivered are from

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<sup>1</sup> For example, with respect to CMCs with a Vintage of June 2022, IPA shall issue the Payment Calculation Notice containing the CMC Monthly Price for such CMCs no later than July 25, 2022. CMCs with a Vintage of June 2022 are expected to be Delivered by the last Business Day of July 2022 via the irrevocable Standing Order and Seller shall issue its invoice to Buyer no later than August 20, 2022.

different Vintages, then Seller shall render to Buyer one invoice for each Vintage. Each invoice shall specify:

- (i) the Delivery Month in which the CMC Deliveries were made;
- (ii) the applicable CMC Monthly Price;
- (iii) the Vintage of the CMCs Delivered;
- (iv) the quantity of CMCs Delivered of the Vintage applicable to the CMC Monthly Price;
- (v) the invoice amount to be paid for CMCs, which shall equal the multiplicative product of the CMC Monthly Price and the quantity of CMCs Delivered associated with the CMC Monthly Price; and
- (vi) the Tracking System unit ID for the Facility.

e. If in a Delivery Year Seller has received the benefit of a Subsidy, Seller shall fully remit the value of such monetized Subsidy to Buyer within thirty (30) days following the end of such Delivery Year to the extent that the value of such monetized Subsidy is not reflected in any prior CMC Monthly Price. In such a case, Seller shall render an invoice to Buyer by electronic mail on or before the 20th day of the month immediately following such Delivery Year. Notwithstanding, and subject to the foregoing, Seller may request that Buyer issue an invoice to Seller for documentary purposes, which shall be based upon Seller's invoice. The invoice shall indicate:

- (i) the Delivery Year in which the benefit of the Subsidy was received;
- (ii) the value of the monetized Subsidy; and
- (iii) detailed information related to the nature of the Subsidy and calculation of the invoice amount.

f. All invoices issued by Seller related to the monthly Delivery of CMCs or related to the Subsidy shall include a certification that Seller has made commercially reasonable efforts to apply for federal tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits, direct payments, or similar subsidy programs that support carbon-free generation from any unit of government applicable to the Facility and for which it is eligible to apply for in relation to the Facility.

g. Failure to make commercially reasonable efforts to apply for a Subsidy is an Event of Default. If it is determined by the IPA that Seller has failed to make commercially reasonable efforts to apply for a Subsidy, then IPA shall provide written notice of such failure to Buyer and Seller and identifying the Subsidy in its notice, and the Buyer shall notify the Seller of the Event of Default within ten (10) Business Days of receipt of such notice from the IPA. Upon Buyer notifying Seller of the occurrence of such Event of Default, Seller shall have ten (10) Business Days to either demonstrate to the satisfaction of the IPA in its reasonable discretion that such Event of Default has not occurred, or to effect a cure by making commercially reasonable efforts to apply for the Subsidy identified by the IPA to the extent it remains possible to apply for such Subsidy and providing the IPA all information reasonably available in connection with Seller's efforts to apply for such Subsidy. For avoidance of doubt, if Seller cures such Event of Default in accordance with the foregoing, then the Event of Default shall cease to be an Event of Default upon the recognition by the IPA in its reasonable discretion of Seller's commercially reasonable efforts to apply for the Subsidy. If Seller fails to demonstrate that such Event of Default has not occurred or fails to cure the Event of Default within ten (10) Business Days of Seller's receipt of Buyer's notice, then Buyer shall terminate this CMC Contract. For such Event of Default (provided such Event of Default is not cured by Seller in accordance with the foregoing), Buyer shall be entitled to payment by Seller in the amount of the Collateral Requirement and any outstanding amounts that are due to Buyer related to the Delivery of CMCs



or related to the value of any monetized Subsidy received by Seller. The Parties acknowledge that (A) Buyer shall be damaged by the failure of Seller to make commercially reasonable efforts to apply for the Subsidy, (B) it would be impracticable or extremely difficult to determine the actual damages resulting therefrom, (C) the remedies specified herein are fair and reasonable and do not constitute a penalty and (D) the remedies specified in this section shall be Buyer's sole and exclusive remedy in such Event of Default.

h. With respect to all payments due hereunder, the Party owing payments shall make payments by electronic funds transfer, or by other mutually agreed methods, to the account designated in the Notices section of the Cover Sheet or other such account as may be updated by written notice from Seller or from Buyer.

i. Notwithstanding the provisions of 6(b) of this Cover Sheet, each Party may, in good faith, dispute the correctness of any invoice issued by the other Party under this Section 6 within three (3) months after receipt of such invoice. Any such dispute must be in writing and state the basis for the dispute, which must be made in good faith. Subject to Section 5.4 of the Master CMC Agreement, a Party may withhold payment of the disputed amount until two (2) Business Days following the resolution of the dispute, and any amounts not paid when originally due, and subsequently determined to be due and payable, shall bear interest at the Default Rate from the original due date of the invoice.

j. Any undisputed amounts not paid by the original due date of an invoice are delinquent and will accrue interest at the Default Rate. Inadvertent overpayments will be returned upon request or credited by the Party receiving such overpayment against amounts subsequently due from the other Party. Any dispute with respect to an invoice is waived unless the disputing Party notifies the other Party in accordance with this section within three (3) months after the invoice is rendered. This provision shall survive after the expiration of the term of this CMC Contract. If final resolution of the dispute is not completed within sixty (60) days after notification of the dispute, the Parties shall be entitled to pursue the remedies provided in Section 9.8 of the Master CMC Agreement.

k. Except as provided in Section 6(i) and (j) of the Cover Sheet, in no event will Buyer or Seller be liable whatsoever to the other Party for any payments of invoices issued after the expiration of the term of this CMC Contract.

l. The Parties acknowledge that Buyer is permitted to recover all costs incurred under or otherwise associated with this CMC Contract ("Buyer's Contract Costs") through tariff or tariffs filed with the Illinois Commerce Commission ("Cost Recovery Tariff"). Buyer's payment obligations under this CMC Contract shall be reduced dollar for dollar to the extent that Buyer is prohibited from recovering any portion of Buyer's Contract Costs. For the avoidance of doubt, in the event that Buyer is required to refund or otherwise credit to its customers amounts previously collected through its Cost Recovery Tariff in connection with the Buyer's Contract Costs (such refunded or credited amount, the "Refunded Amount"), Buyer shall be entitled to either (i) offset any future amounts due to Seller by an amount equal to the Refunded Amount or (ii) if no future amounts are due to Seller or if any such amounts are less than the Refunded Amount, invoice Seller for the Refunded Amount. Any amount invoiced to Seller under this section shall be due thirty (30) days from Seller's receipt of such invoice.

m. If at any point in time, Buyer is not permitted to or cannot recover Buyer's Contract Costs from its customers through its Cost Recovery Tariff for any reason whatsoever, then, notwithstanding anything to the contrary in the Agreement, the obligations of Buyer (including payment for CMCs) and the obligations of Seller shall be immediately suspended upon written notice from Buyer to Seller.

(i) Buyer shall provide written notice to Seller at such time when Buyer is able to resume recovery of all of Buyer's Contract Costs through its Cost Recovery Tariff, whereupon the respective rights and obligations of Buyer and Seller under the CMC Contract shall resume as of the effective date indicated in such notice. No such suspension shall extend the Delivery Term or the term of this CMC Contract.



(ii) If a Suspension Period arising under this section continues for more than three hundred sixty-five (365) consecutive days, then Buyer shall terminate this CMC Contract upon written notice to the Seller and neither Party shall have any further liability to the other except for those liabilities arising prior to the date of such termination.

7. **Environmental Attributes and Verification.**

The Product is CMC. Seller acknowledges and agrees that any Environmental Attribute associated with or related to the Product, including without limitation any verified emissions reduction, (or the Product itself) will not be sold or otherwise made available to a third party but will be sold to Buyer pursuant to this CMC Contract. For the avoidance of doubt, any CMC Delivered hereunder must meet the definition of “Carbon Mitigation Credit” under the IPA Act.

8. **Facility Information.**

**Table 1**

<b>Facility Information</b>	<p>(a) Facility</p> <p>(i) Station Name: _____</p> <p>(ii) Location: _____</p> <p>(iii) Reactor Unit: _____</p> <p>(b) Pnode ID: _____</p> <p>(c) Unit Summer Capacity (MW): _____ MW</p> <p>(d) Delivery Year Bid Price:</p> <p>June 1, 2022 – May 31, 2023: _____ per CMC</p> <p>June 1, 2023 – May 31, 2024: _____ per CMC</p> <p>June 1, 2024 – May 31, 2025: _____ per CMC</p> <p>June 1, 2025 – May 31, 2026: _____ per CMC</p> <p>June 1, 2026 – May 31, 2027: _____ per CMC</p> <p>(e) Minimum Delivery Commitment: _____ MWh (i.e., 88% x 8,760 x Unit Summer Capacity (MW), rounded down to nearest integer)</p> <p>(f) Delivery Year Projected Generation:</p> <p>June 1, 2022 – May 31, 2023: _____ MWh</p> <p>June 1, 2023 – May 31, 2024: _____ MWh</p> <p>June 1, 2024 – May 31, 2025: _____ MWh</p> <p>June 1, 2025 – May 31, 2026: _____ MWh</p> <p>June 1, 2026 – May 31, 2027: _____ MWh</p> <p>(g) Energy Price Index selected pursuant to Section 1-75(d-10)(3)(C)(iii)(I) of IPA Act:</p> <p><input type="checkbox"/> (aa) weighted average day-ahead price at Pnode ID</p> <p><input type="checkbox"/> (bb) projected energy price for NIHUB</p>
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a. The Product is Facility specific; CMCs Delivered must be from the Facility specified in Table 1 and Seller represents that:

i. As of the Effective Date and as of the date of each Delivery hereunder, the Facility meets the definition of “Carbon-free Energy Resource” under Section 1-75(d-10) of the IPA Act.

- ii. As of the Effective Date and as of the date of each Delivery hereunder, the operating license of the Facility issued by the Nuclear Regulatory Commission has not been terminated or suspended.
  - iii. As of the date of each Delivery hereunder, the Product has not and shall not be used by Seller or another party to comply with another portfolio or standard, including but not limited to, the renewable portfolio standard set forth in Section 1-75(c) of the IPA Act or the clean coal portfolio standard set forth in Section 1-75(d) of the IPA Act or the zero emission standard set forth in Section 1-75(d-5) of the IPA Act.
  - iv. As of the Effective Date, it does not have actual knowledge of or reasonably foresees any capital expenditures required for the Facility in excess of \$40,000,000 that a prudent owner or operator of a similar facility would not undertake.
  - v. As of the Effective Date and as of the date of each Delivery hereunder, Seller has made commercially reasonable efforts to apply for all Subsidies.
  - vi. As of the Effective Date and throughout the term of this CMC Contract, Seller is committed to continue operating the Facility in such manner that the Delivery Year Performance of each Delivery Year is at least equal to the Minimum Delivery Commitment unless excused by Force Majeure, by an Event of Default of Buyer, Suspension Period or unless made impracticable as a result of compliance with law or regulation.
- b. Non-compliance with any of the above provisions shall constitute an Event of Default. If Seller is determined by the IPA not to be in compliance with any of the provisions above, then upon the occurrence of such determination, the IPA shall provide written notice of such non-compliance to Buyer and Seller.

Buyer shall notify the Seller of the Event of Default within ten (10) Business Days of receipt of such notice from the IPA.

Upon notifying the Seller of the occurrence of such Event of Default related to items (i) through (iv) above, Buyer shall terminate this CMC Contract ten (10) Business Days after written notice by Buyer to Seller unless Seller demonstrates, within such ten (10) Business Day period and to the satisfaction of Buyer in its sole discretion, that such Event of Default has not occurred.

For non-compliance with any of the requirements specified in (i) through (iv) above, Buyer shall be entitled to payment by Seller in the amount of the Collateral Requirement and any outstanding amounts that are due to Buyer related to the Delivery of CMCs or Subsidy. The Parties acknowledge that (A) Buyer shall be damaged by the failure of Seller to comply with one or more of the above requirements, (B) it would be impracticable or extremely difficult to determine the actual damages resulting therefrom, (C) the remedies specified herein are fair and reasonable and do not constitute a penalty and (D) the remedies specified in this section shall be Buyer's sole and exclusive remedy in the event that Seller fails to comply with one or more of the above requirements.

For an Event of Default related to items (v), Section 6(g) of this Cover Sheet shall govern. For an Event of Default related to item (vi), Section 4 of this Cover Sheet shall govern.

9. **Applicable Program.** The Product is eligible for compliance with the Applicable Program. Seller warrants, as of the Effective Date and each date of Delivery, that the Product meets all the requirements of the Applicable Program for compliance. The Illinois Carbon Mitigation Credit Program, as established under 20 Ill. Comp. Stat. 3855/1-75(d-10), is the Applicable Program for this CMC Contract. All CMCs Delivered by Seller under this CMC Contract must allow Buyer to meet its obligations under the Applicable Program. The Product is Regulatorily Continuing.

10. **CMC Record Keeping.** Upon Delivery of the Product as provided hereunder, Seller will deliver such documentation as is required by the Certification Authority or the Applicable Program.

11. **Tracking System.**

- a. The Parties will use PJM-EIS GATS as the tracking system for the Product. The Parties shall work together to establish an irrevocable Standing Order for the Facility for the automatic recurring transfer of CMCs to Buyer's account in PJM-EIS GATS.
- b. The irrevocable Standing Order shall be for the automatic recurring transfer of all CMCs having a Vintage of June 1, 2022 through May 31, 2027 (inclusive).
- c. Seller, as transferor of the CMCs, shall initiate the irrevocable Standing Order request within the PJM-EIS GATS by May 1, 2022. Buyer, as transferee, shall accept the properly submitted Irrevocable Standing Order request within the PJM-EIS GATS by June 1, 2022.
- d. Seller shall Deliver the CMCs in an unretired state. Buyer shall retire CMCs Delivered from the Facility by the month after the receipt of such CMCs in Buyer's PJM-EIS GATS account. Buyer is not responsible for, and is under no obligation to return, any inadvertent transfer of Ineligible CMCs.
- e. The Parties shall abide by the applicable rules of PJM-EIS GATS. Seller shall take all actions necessary to ensure creation of CMCs and CMC Delivery through the irrevocable Standing Order. Each Party shall bear the costs associated with performing its respective obligations in connection with such tracking system.
- f. Buyer and Seller shall work together to remove the Standing Order within ten (10) Business Days after the last Delivery of CMCs for the Delivery Term has occurred. Buyer and Seller shall work together to suspend the irrevocable Standing Order within ten (10) Business Days of the effective date of any Suspension Period and to lift such suspension once the Suspension Period has ended.
- g. Seller represents that the CMCs have been designated as "IL CMC Program eligible" or equivalent by the Tracking System, prior to transferring the CMCs to the Buyer's Tracking System account.

12. **Master CMC Agreement Cover Sheet.** The following provisions include elections and modifications to the terms and conditions of the Master CMC Agreement incorporated herein:

a. **Notices.**

Party A: \_\_\_\_\_

Party B: \_\_\_\_\_

All Notices:

Street:

City:

All Notices:

Street:

City:

Attn:

Phone:

Email:

Federal Tax ID Number:

Attn:

Phone:

Email:

Federal Tax ID Number:

**Invoices:**

**Invoices:**

Attn:  
Phone:  
Email:

With a copy to:

Attn:  
Phone:  
Email:

**Payments:**

Attn:  
Phone:  
Email:

**Wire Transfer:**

BNK:  
ABA:  
ACCT:

**ACH Transfer:**

BNK:  
ABA:  
ACCT:

**Credit and Collections:**

Attn:  
Phone:  
Email:

**Generation/Price/Subsidy Reporting:**

Attn:  
Phone:  
Email:

With additional Notices of an Event of  
Default or Potential Event of Default to:

Attn:  
Phone:  
Email:

**Information to IPA to:**

Attn:  
Phone:  
Email:

Attn:  
Phone:  
Email:

With a copy to:

Attn:  
Phone:  
Email:

**Payments:**

Attn:  
Phone:  
Email:

**Wire Transfer:**

BNK:  
ABA:  
ACCT:

**ACH Transfer:**

BNK:  
ABA:  
ACCT:

**Credit and Collections:**

Attn:  
Phone:  
Email:

**Generation/Price/Subsidy Reporting:**

Attn:  
Phone:  
Email:

With additional Notices of an Event of  
Default or Potential Event of Default to:

Attn:  
Phone:  
Email:

- b. All references to “Renewable Energy Certificate” or “Renewable Energy Credit” shall be replaced with “Carbon Mitigation Credit; all references to “REC” shall be replaced with “CMC”; all references to “Renewable Energy Facility” shall be replaced with “Facility”; and all references to “Renewable Energy Source” shall be replaced with “Carbon-free Energy Resource” throughout the entire Master CMC Agreement. For avoidance of doubt, the replacement of such terms in the singular includes the replacement of such terms in the plural where appropriate.
- c. The following changes are made to Article 1: Definitions of the Master CMC Agreement.

The definition of “Affiliate” in Section 1.2 is replaced in its entirety with the following:

“Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person, with “control” meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies, or activities of a person, whether through ownership or voting securities, by contract or otherwise.”

The definition of “Bankrupt” in Section 1.7 is amended by replacing “30 days” in clause (ii) with “60 days.”

The following is added as Section 1.15.1:

““Collateral Requirement” shall be an amount equal to the multiplicative product of (i) \$0.80 and (ii) the Minimum Delivery Commitment.”

The definition of “Credit Rating” in Section 1.18 is replaced in its entirety with the following:

““Credit Rating” means, with respect to Seller or Seller’s Guarantor, as applicable, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (excluding, however, any debt obligations that are supported by specific third party credit enhancement that would not apply to payment obligations under this Agreement) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer default rating by Fitch, or the issuer rating by Moody’s, or the corporate issuer rating or corporate credit rating by S&P if such entity is a U.S. utility operating company with an investment grade rating, or the corporate issuer rating or corporate credit rating, discounted one notch, by S&P if such entity is not a U.S. utility operating company with an investment grade rating; provided, however, that in the event Seller (or Seller’s Guarantor, if applicable) is rated by only one rating agency, that rating will be used. If Seller, or its Guarantor, is rated by only two rating agencies, and the ratings are split, the lower rating will be used. If Seller, or its Guarantor, is rated by three rating agencies, and the ratings are split, the lower of the two highest ratings will be used; provided that in the event that the two highest ratings are common, such common rating will be used.”

The following is added as Section 1.19.1:

““Default Rate” means a rate per annum equal to one (1) percent over the per annum prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates.””

The definition of “Delivery” in Section 1.21 is replaced in its entirety with the following:

““Deliver” or “Delivered” or “Delivery” means the transfer from Seller to Buyer of the Product by Seller to Buyer’s PJM-EIS GATS account through the established irrevocable Standing Order.”

The definition of “Delivery Date” in Section 1.22 is replaced in its entirety with the following:

““Delivery Date” means the scheduled date for the transfer of CMCs each month pursuant to an irrevocable Standing Order.”

The following is added as Section 1.29.1:

““Fitch” means Fitch Ratings Ltd.”

The definition of “Guarantor” in Section 1.35 is replaced in its entirety with the following:

““Guarantor” means the party named as the Guarantor in the Guaranty.”

The following is added as Section 1.35.1:

““Guaranty” means an irrevocable and unconditional guaranty made by Seller’s Guarantor, in the form attached hereto as Exhibit A with such options as elected therefrom.”

The following is added as Section 1.35.2:

““Guaranteed Obligations” means any contract entered into by Seller or affiliates of the Seller with Buyer that are in effect during any Delivery Year, and for which Seller or Seller’s Guarantor is granted an unsecured line of credit from Buyer.”

The following is added as Section 1.35.3:

““IPA Act” means the Illinois Power Agency Act, 20 ILCS 3855.”

The following is added as Section 1.37.1:

““Letter of Credit” means an irrevocable, transferable standby letter of credit issued by a major U.S. commercial bank or the U.S. branch office or U.S. agency office of a foreign bank utilizing either of the forms attached as Exhibit B to the CMC Contract.”

The definition of “Moody’s” in Section 1.39 is replaced in its entirety with the following:

““Moody’s” means Moody’s Investors Service, Inc.”

Section 1.48 is amended by replacing the phrase “failure of performance by the Potentially Non-Defaulting Party” in the second line of the section with “failure of performance by the Potentially Defaulting Party”.

The following is added as Section 1.51.1:

““Public Utilities Act” means the Illinois Public Utilities Act, 220 ILCS 5.”

The definition of “Regulatorily Continuing” in Section 1.53 is replaced in its entirety with the following:

““Regulatorily Continuing” means, with respect to the Transaction, the Product shall comply with the requirements of the Applicable Program, as of each Delivery Date, and Seller will do what is necessary to cause the Product that is delivered to comply with such requirements; except as otherwise provided in Article 7.”

The definition of “Renewable Energy Certificate” or “REC” in Section 1.54 is replaced in its entirety with the following:

“Carbon Mitigation Credit” or “CMC” means a tradable credit that represents the carbon emission reduction attributes of one megawatt-hour of energy produced from



the Facility.

The definition of “Renewable Energy Facility” in Section 1.55 is replaced in its entirety with the following:

“Facility” means a generating unit that is specified in Table 1 of the Cover Sheet.

The definition of “Renewable Energy Source” in Section 1.56 is replaced in its entirety with the following:

“Carbon-free Energy Resource” means an electric energy source that is derived from nuclear fuel of a generating unit that is interconnected with PJM Interconnection, LLC or its successor.

The definition of “S&P” in Section 1.59 is replaced in its entirety with the following:

““S&P” means S&P Global Ratings.”

The following is added as Section 1.62.1:

“Standing Order” means, with respect to the Facility, an agreement registered with PJM-EIS GATS for the automatic transfer of CMCs issued for the Facility to Buyer’s PJM-EIS GATS account on a recurring basis in accordance with Section 11 of the Cover Sheet.

The following is added as Section 1.62.2:

“Suspension Period” means the period of time during which the obligations of the Parties under this CMC Contract are suspended in accordance with Section 6 of the Cover Sheet or Article 6 of the Master CMC Agreement.

d. The following changes are made to Article 2:

Section 2.1 (Transactions) shall not apply.

Section 2.2 (Payment) shall not apply. Payments under this CMC Contract shall be made pursuant to Section 6 of the Cover Sheet.

Section 2.3 (Confirmation) shall not apply.

Section 2.8 is amended by replacing “consented to be Seller” with “consented to by Seller” in the section and delete the last sentence of Section 2.8.

Section 2.9 (Scope of Agreement) shall not apply.

e. The following changes are made to Article 3:

Subsection (l) of Section 3.1 is amended by moving the words “to its knowledge” to the start of the subsection.

Subsection (m) of Section 3.1 is amended by replacing the second reference to “United States Bankruptcy Code §101(26)” with “United States Bankruptcy Code §101(25).”

Subsection (n) of Section 3.1 is amended by replacing “United States Commodity Exchange

Act §§1a(11) and 1a(12)” with “United States Commodity Exchange Act §§1a(17) and 1a(18).”

Section 3.2 is amended by replacing “by any” with “of any” in the eighteenth line.

Section 3.4 is amended by replacing “such Party’s” in the section with “the indemnified Party’s”.

- f. The following changes are made to Article 4:

Section 4.2 shall not apply.

Collateral Threshold is applicable with respect to Seller, but not with respect to Buyer, and Section 4.3 shall apply to Seller as amended and restated in its entirety as follows:

“4.3 Performance Assurance.

- (a) Seller will be required to post Performance Assurance with respect to this Agreement, in an aggregate amount equal to the Collateral Requirement less the applicable Collateral Threshold Amount (as defined below) within three (3) Business Days of notice from Buyer.

- (b) “Collateral Threshold Amount” means, with respect to Seller or its Guarantor, if applicable, the amount determined in accordance with Table A below; provided that:

(i) for the applicable Credit Rating within Table A, Collateral Threshold Amount for such party shall be the lesser of that party’s applicable percentage of Tangible Net Worth or the amount shown as the Credit Limit; and provided further, that in the event Seller or its Guarantor is (a) only rated by one credit rating agency, such Credit Rating will apply; (b) rated by two credit rating agencies, the lower of the two Credit Ratings will apply; (c) rated by all three credit rating agencies, then the lower of the two highest Credit Ratings will apply; (d) in the event that the two highest Credit Ratings are common, such common Credit Rating will apply; and (e) if none of Moody’s, S&P nor Fitch assign a Credit Rating to Seller or its Guarantor, as applicable, the Collateral Threshold Amount shall be zero;

(ii) if Seller is relying on a Guarantor and such Guarantor has provided a corporate guaranty, the Collateral Threshold Amount shall be the lesser of the Collateral Threshold Amount as determined by Section 4.3(b)(i) above or the amount of such corporate guaranty; provided, that Seller’s Guarantor will be granted a single Collateral Threshold Amount to be applied to all credit exposure or collateral or security amounts (however defined) arising under any Guaranteed Obligations for which it guarantees payment obligations on behalf of one or more parties to such Guaranteed Obligations;

(iii) if Seller is relying on its own financial standing, Seller will be granted a single Collateral Threshold Amount to be applied across this Agreement and all other credit exposure or collateral or security amounts (however defined) arising under any Guaranteed Obligations to which it is a party. The maximum level of the Collateral Threshold Amount to be provided to Seller will be determined in accordance with Table A below. If Seller has one or more Affiliates that are parties to a Guaranteed Obligations (“GO Affiliates”) with Buyer, Seller and its GO Affiliate(s) will each be granted a separate, standalone Collateral Threshold

Amount. In this case, Seller's Collateral Threshold Amount will be the lower of (a) the appropriate Credit Limit as shown in Table A; and (b) an amount determined by dividing the appropriate Credit Limit as shown in Table A for Seller by the sum of the appropriate Credit Limits applicable for Seller and each GO Affiliate and multiplying such amount by \$80,000,000; and

(iv) upon the occurrence and during the continuance of an Event of Default or Potential Event of Default with respect to Seller, the Collateral Threshold Amount shall be zero.

**Table A**

Credit Rating			Collateral Threshold Amount (the lesser of the following)	
S&P	Moody's	Fitch	Percent of Tangible Net Worth	Credit Limit
A- and above	A3 and above	A- and above	16%	\$80,000,000
BBB+	Baa1	BBB+	10%	\$60,000,000
BBB	Baa2	BBB	8%	\$40,000,000
BBB-	Baa3	BBB-	6%	\$20,000,000
Below BBB-	Below Baa3	Below BBB-	0%	\$0

”

Section 4.4 shall not apply.

Section 4.5 is replaced in its entirety with the following:

“Guarantee. If Seller is relying on a Guarantor for purposes of its Collateral Threshold in accordance with Section 4.3, then Seller will provide, concurrently with the execution and delivery of the CMC Contract, a Guaranty.”

- g. Cross-Default Threshold for each of Buyer and Seller is \$50,000,000.
- h. The following changes are made to Article 5:

Subsection (b) of Section 5.1 is replaced in its entirety with the following:

“failure to Deliver or to receive Product with Vintages between June 1, 2022 through May 31, 2027.”

Subsection (c) of Section 5.1 is amended by adding the following prior to the semi-colon:

“unless the Potentially Defaulting Party demonstrates, within a ten (10) Business Day period from the time of notice by and to the satisfaction of the Potentially Non-Defaulting Party in its sole discretion, that such Potential Event of Default has not occurred.”

Subsection (e) of Section 5.1 is amended to add the following to the end thereof:

“or the failure of the issuer of the Letter of Credit to maintain during the term of this Agreement the credit rating required under the Letter of Credit as of the Date of

Issuance (as that term is used in the Letter of Credit).”

Subsection (h) of Section 5.1 is amended by replacing “with respect to such Party’s Guarantor, if any:” with “with respect to such Party’s Guarantor, if any, the occurrence of any of the following (provided that Seller does not post Seller’s Performance Assurance in an amount equal to the Collateral Requirement within ten (10) Business Days):”

A new Subsection (i) is added to the end of Section 5.1.:

“(i) the failure of Seller to meet the Minimum Delivery Commitment for any Delivery Year as set forth in Section 4 of the Cover Sheet;”

A new Subsection (j) is added to the end of Section 5.1.:

“(j) the failure of Seller to comply with the reporting requirements set forth in Section 5 of the Cover Sheet;”

Section 5.2 is replaced in its entirety with the following:

“Except as otherwise set forth in this Agreement, if an Event of Default with respect to a Defaulting Party occurs and is continuing, the other Party (the “Non-Defaulting Party”) will have the right to (i) designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date (“Early Termination Date”) to liquidate and terminate all Transaction(s) under this Agreement, (ii) withhold any payments due to the Defaulting Party under this Agreement, and (iii) suspend performance. The Non-Defaulting Party will calculate a Settlement Amount with respect to each Facility and a Termination Payment with respect to this Agreement pursuant to Section 5.3 as of the Early Termination Date, and provide such calculation to the Defaulting Party by the Early Termination Date.”

Section 5.3 is replaced in its entirety with the following:

“(a) In the Event of Default with respect to Buyer as the “Defaulting Party”, the following shall occur:

- (i) Buyer shall return Seller’s Performance Assurance held by Buyer by the date the Termination Payment is due;
- (ii) Seller shall calculate a Settlement Amount for CMCs that were Delivered but were not yet paid by Buyer or Seller, as applicable, based on the applicable CMC Monthly Price less the value of any monetized Subsidy not yet remitted to Buyer; and
- (iii) the Settlement Amounts so calculated, if any shall be the Termination Payment and the Termination Payment, if any, is due to Seller as the Non-Defaulting Party within twenty (20) Business Days following notice by Seller to Buyer pursuant to Section 5.2.

(b) In the Event of Default with respect to Seller as the “Defaulting Party”, the following shall occur:

- (i) Buyer shall calculate a Settlement Amount as the sum of:

- (A) Collateral Requirement;
  - (B) Any outstanding amounts related to CMCs due to Buyer net of any amounts due from Buyer, as applicable; and
  - (C) Notwithstanding the provisions of Section 6(e) of the Cover Sheet, any outstanding amounts related to Subsidy received by Seller and not remitted to Buyer.
- (ii) the Settlement Amount so calculated, if any, shall be the Termination Payment and the Termination Payment, if any, is due to Buyer as the Non-Defaulting Party within twenty (20) Business Days following notice by Buyer to Seller pursuant to Section 5.2. Unless Seller pays the Termination Payment in full during this twenty (20) Business Day period, Seller's Performance Assurance held by Buyer shall be applied to the Termination Payment, with any excess Performance Assurance amounts returned to Seller.
- (c) For avoidance of doubt, the Non-Defaulting Party shall not owe any amount as Termination Payment to the Defaulting Party and payment of the Termination Payment shall only be from the Defaulting Party to the Non-Defaulting Party."

Section 5.5 is amended by replacing "any or all Transactions" with "this Agreement" in the third line, by replacing "be" with "by" in the last line.

Section 5.7 is replaced in its entirety with the following:

"THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED HEREIN SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGE IS PROVIDED, SUCH REMEDY OR MEASURE SHALL BE THE SOLE AND EXCLUSIVE REMEDY THEREFOR. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AS THE SOLE AND EXCLUSIVE REMEDY. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, NO PARTY SHALL BE REQUIRED TO PAY OR BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE DEEMED LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS."

A new Section 5.8 is added to the Master CMC Agreement as follows:

"5.8. Setoff. Upon the occurrence of an Event of Default with respect to a Party ("X"), the other Party ("Y") will have the right (but not be obliged) without prior notice to X or any other person to set-off or apply any obligation of X owed to Y (whether or not matured or contingent and whether or not arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Y owed to X (whether or not matured or contingent and whether or not

arising under this Agreement, and regardless of the currency, place of payment or booking office of the obligation). Y will give notice to X of any setoff effected hereunder. If any obligation is unascertained, Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant Party accounting to the other when the obligation is ascertained. Nothing herein shall be deemed to create a charge or other security interest. This provision shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).”

- i. Article 6 is amended and restated to read in its entirety as follows:

#### **“ARTICLE 6: FORCE MAJEURE**

If either Party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations with respect to this Agreement, upon such Party’s (the “Claiming Party”) giving notice and full particulars of such Force Majeure to the other Party and to the IPA as soon as reasonably possible after the occurrence of the cause relied upon, confirmed in writing, then the obligations of the Claiming Party will, to the extent it is affected by such Force Majeure, be suspended during the continuance of said inability, but for no longer period, and the Claiming Party will not be in breach hereof or liable to the other Party for, or on account of, any loss, damage, injury or expense resulting from, or arising out of such event of Force Majeure during such Suspension Period. If Buyer is the Claiming Party, then Seller will have until the end of the fifth (5th) Business Day following such receipt to notify Buyer that it objects to or disputes the existence of Force Majeure. If Seller is the Claiming Party, then the claim shall be subject to the confirmation by the IPA and the IPA shall have until the end of the tenth (10<sup>th</sup>) Business Day to confirm or dispute the existence of Force Majeure.

“Force Majeure” means an event or circumstance which materially adversely affects the ability of a Party to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the date such Transaction was entered into and which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which the Claiming Party is unable to overcome or avoid or cause to be avoided, by the exercise of due diligence. For the avoidance of doubt, Seller shall be excused from its performance under this Agreement for any cause beyond the control of Seller, including, but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of commercially reasonable efforts, Seller could not reasonably have been expected to avoid, and which, by the exercise of commercially reasonable efforts, Seller has been unable to overcome. The Parties acknowledge that unforeseen events directly related to the global pandemic caused by COVID-19 (including the virus designated SARS-CoV-2 or any mutations thereof), including shutdowns mandated by any Governmental Authority, border closures, and isolation/quarantine orders or requirements, including with respect to Seller’s contractors, subcontractors or vendors, may constitute an event of Force Majeure, provided that any such event shall meet the requirements of this definition. Seller shall be excused from performance for the duration of the event, including, but not limited to, Delivery of CMCs, and no payment shall be due to Seller during the duration of the Suspension Period.”

- j. Article 7 is amended and restated to read in its entirety as follows:



## **“ARTICLE 7: GOVERNMENT ACTION**

The Parties acknowledge that the Applicable Program, which among other things establishes the conditions for a market for certain Products, may be the subject of Government Action (including court challenge) that could adversely affect the eligibility of a Product to meet the requirements of an Applicable Program or otherwise alter the requirements of the Applicable Program, or make a Product unavailable or dramatically diminished or increased in value. With respect to the Transaction, if Seller represents that a Product complies with an Applicable Program, such representation is made and effective as of the Trade Date, and regardless of any Government Action occurring after the Trade Date, Seller must Deliver Product that complies with the Applicable Program as of each Delivery Date. Government Action that changes in any respect the value of a Product (without rendering the Product out of compliance with the Applicable Program if Regulatorily Continuing), will, subject to Section 6(l) and 6(m) of the Cover Sheet, have no effect on the obligation of the Parties to purchase and sell such Product at the price and on the terms set forth in the Cover Sheet. To the extent that a final and non-appealable Government Action renders Delivery illegal or unenforceable under Applicable Law or the Applicable Program is found to be illegal or unenforceable, this Agreement shall be promptly terminated, which shall be within twenty (20) Business Days of notice from either Party informing the other Party by written notice of such Government Action, and any unpaid CMCs Delivered shall be returned to Seller by Buyer, to the extent it is lawful to do so. Notwithstanding the foregoing, no Transaction will be affected, cancelled, or otherwise impaired by Government Action that is specific to a Party under Applicable Law taken by a Governmental Authority alleging that Party's violation thereof.”

- k. Governing Law (Article 8) is the law of the State of Illinois, without regard to principles of conflicts of law.
- l. The following changes are made to Article 9:

Section 9.1 is replaced in its entirety with the following:

### **“9.1 Term and Termination.**

(a) The term of this Agreement shall commence on the Effective Date and remain in effect until December 31, 2027; unless terminated earlier as provided in Section 5.2 or as provided in Section 9.1(b) of the Master CMC Agreement.

(b) Seller may elect to terminate this Agreement upon the occurrence of any of the following events:

- (i) legislation is enacted into law by the General Assembly of Illinois that imposes or authorizes a new tax, special assessment, or fee on the generation of electricity, the ownership or leasehold of a generating unit, or the privilege or occupation of such generation, ownership, or leasehold of generation units; provided that such termination right shall not apply in the case of any generally applicable tax, special assessment or fee, or requirements imposed by federal law; or
- (ii) the Facility requires capital expenditures in excess of \$40,000,000 that a prudent owner or operator of a similar facility would not undertake and Seller did not have actual knowledge of or should not have reasonably foreseen the need to make such capital expenditure; or

- (iii) the operating license for the Facility is terminated by the Nuclear Regulatory Commission.

Any such election to terminate shall be made by written notice to Buyer, the IPA and the Illinois Commerce Commission, which notice shall refer to the provision of this Agreement under which such election is being made and provide all necessary details regarding the circumstances giving rise to the ability to make that election. Such election shall be effective upon receipt of the written notice by Buyer. In the event of such termination, neither Party shall have any further liability to the other except for those liabilities arising prior to the date of such termination.”

Section 9.2 is replaced in its entirety with the following:

“9.2 Assignment. Neither Party may assign this Agreement or any Transaction without the prior written consent of the other, which consent will not be unreasonably withheld, conditioned or delayed; provided, however, either Party may, without the consent of the other, (i) pledge, encumber or collaterally assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements (but, in the case of Section 9.2(i) only, without relieving itself from liability hereunder), (ii) transfer or assign this Agreement to an Affiliate of such Party which Affiliate’s creditworthiness is equal to or higher than that of such Party on the Effective Date, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party on the Effective Date; provided, however, that in the case of an assignment pursuant to Section 9.2(ii) and (iii), any such assignee must, prior to any assignment, agree in writing to be bound by the terms and conditions hereof and the transferring Party must deliver such tax and enforceability assurance as the non-transferring Party may reasonably request and, in the case of an assignment pursuant to Section 9.2(i), the non-transferring Party must give notice to the other Party within ten (10) days of any such collateral assignment. This Agreement will bind each Party’s successors and permitted assigns. Any attempted assignment in violation of this provision will be void *ab initio*.”

Subsection (h) of Section 9.5 is amended by adding the following sentence to the end thereof:

“Delivery of an executed counterpart of a signature page to this Agreement by facsimile or electronic means shall be effective as delivery of a manually executed counterpart of this Agreement. Electronic or fax copies of executed original copies of this Agreement shall be sufficient and admissible evidence of the content and existence of this Agreement to the same extent as the originally executed copy or copies (if executed in counterpart).”

Confidentiality is applicable and Section 9.7 shall apply. Section 9.7 is amended by inserting “prospective Guarantors, prospective lenders, prospective purchasers, investors, prospective investors” after “lenders” in the third line and adding the following to the end thereof:

“If a Party is required or requested to disclose any confidential information as provided in (a) or (c) above, the disclosing Party shall provide the other Party with written notice within one (1) Business Day so that the other Party may seek on its own behalf a protective order or any other appropriate remedy. If such protective order or other remedy is not obtained, the disclosing Party will cooperate with the

other Party's counsel to enable such Party to obtain a protective order or other reliable assurance that confidential treatment will be accorded the confidential information. The Parties shall maintain the confidentiality of the terms of the Transaction hereunder in compliance with Section 16-111.5(h) of the Illinois Public Utilities Act (220 ILCS 5/16-111.5(h)). All confidentiality obligations set forth herein shall survive following the expiration or termination of this Agreement, provided, however, that with respect to any confidential information that constitutes a "trade secret" under applicable law, these covenants shall apply for the life of the trade secret."

For Dispute Resolution, in Section 9.8 Waiver of Jury Trial is applicable and Binding Arbitration is applicable with the arbitration taking place in Chicago, Illinois. Section 9.8, Non-Binding Mediation, shall not apply. Section 9.8, Binding Arbitration, Section 1(F) (Baseball Arbitration) shall not apply.

A new section is added to the end of Article 9 as follows:

"9.9 Waiver of Immunities. To the extent either Party possesses any immunity on the grounds of sovereignty or other similar grounds, each Party irrevocably waives, to the fullest extent permitted by Applicable Law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (a) suit, (b) jurisdiction of any court, (c) relief by way of injunction, order for specific performance or for recovery of property, (d) attachment of its assets (whether before or after judgment) and (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any suit, action or proceedings relating hereto in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by Applicable Law, that it will not claim any such immunity in any suit, action or proceedings relating hereto."

- m. Exhibits A through C and the Guidance Notes attached to the end of the Master CMC Agreement shall not apply.

*[Remainder of Page Intentionally Left Blank – Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have caused this CMC Contract to be executed as of the date first written above.

\_\_\_\_\_

(“Party A” or “Seller”)

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

(“Party B” or “Buyer”)

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A (Commonwealth Edison Company)

### Form of Guaranty

THIS GUARANTY (this "Guaranty"), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the "Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Commonwealth Edison Company (the "Guaranteed Party"), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the CMC Contract dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the "Agreement"), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the "Seller"). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement entered into with the Seller pursuant to the RFP. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party, upon written demand, the full and prompt payment when due, subject to any applicable grace period, of all payment obligations of the Seller to the Guaranteed Party arising out of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall

[ ] *Option 1* [in no event exceed \$ \_\_\_\_.]

[ ] *Option 2* [in no event exceed the Collateral Requirement less the value of other liquid securities posted by the Seller under the Agreement.]

All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.

2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by Guaranteed Party against, and any other notice to, any party liable thereon (including the Guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the Seller, and any right to require a proceeding first against the Seller.
3. The Guaranteed Party may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (a) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, the Agreement with respect to the Guaranteed Obligations or any person (including the Seller) that the Guaranteed Party determines in its sole discretion to be necessary or appropriate; (b) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the Seller to the Guaranteed Party; or (c) compromise or subordinate any Guaranteed Obligation(s) or liability of the Seller to the Guaranteed Party including any security therefor.
4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the Seller concerning any provision of the Agreement governing any of the Guaranteed Obligations of the Seller; (b) the rendering of any judgment against the Seller or any action to enforce the same; (c) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (d) any modification, amendment, waiver, extension of or supplement to the Agreement or the Guaranteed Obligations agreed to from time to time by the Seller and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Seller or the

Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the Seller, its assets or the Guarantor; (f) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Seller, the Guaranteed Party, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; and (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same.

5. The Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the Seller or any collateral security or guaranty or right of offset held by the Guaranteed Party therefor until such time as all Guaranteed Obligations are paid in full.
6. The Guarantor will not exercise any rights, which it may acquire by way of subrogation until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement have been paid in full.
7. Subject to the terms and conditions hereof, this Guaranty is a continuing Guaranty and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and the Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which the Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Guaranteed Party to any other or further action in any circumstances without notice or demand.
8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and its successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party, which consent shall not be unreasonably withheld or delayed; and provided further that the Guarantor may, without the prior written consent of the Guaranteed Party, assign all of its rights and obligations under this Guaranty to an entity that has succeeded to the Guarantor by merger or by purchase of all or substantially all of the assets of the Guarantor and, in either case, has expressly assumed in writing all of the obligations of the Guarantor under this Guaranty. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement.
9. Other than as provided in this Guaranty, neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Party and the Guarantor.
10. The Guarantor's liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise. If claim is ever made upon the Guaranteed Party for repayment or recovery of any amount or amounts received from the Guarantor or the Seller in payment or on account of any of the Guaranteed Obligations and the Guaranteed Party repays all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain liable to the Guaranteed Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Guaranteed Party.
11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally paid, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement and in a form



reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully paid.

12. All notices and other communications hereunder shall be made at the addresses by hand delivery, by next day delivery service effective upon receipt, or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or electronic means (effective upon receipt of evidence that the electronic communication was received)

If to the Guarantor: [To be completed with a U.S. address. If the Guarantor is not domiciled in the U.S., the address for its U.S.-based agent for service of process must be provided.]

If to the Guaranteed Party: [To be completed]

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor, except as such enforceability may be limited by bankruptcy, insolvency, receivership and other similar laws affecting the rights of creditors generally, or by general principles of equity; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its \_\_\_\_\_ [insert appropriate corporate organizational document, such as Declaration of Trust, Limited Liability Company Agreement, Articles of Incorporation and by-laws, Certificate of Incorporation or by-laws, constitutional documents] or any law, regulation or contractual restriction binding on it or its assets.
14. This Guaranty and the rights and obligations of the Seller and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the State of Illinois (without regard to conflict of law principles that would require the application of the substantive law of any other jurisdiction). The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the State of Illinois over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to venue or inconvenient forum. The Guarantor and the Guaranteed Party consent to and grant any such court jurisdiction over the person of such party and over the subject matter of such dispute and agree that summons or other legal process in connection with any such action or proceeding shall be deemed properly and effectively served when sent by certified U.S. mail, return receipt requested, to the address of the other party set forth in Paragraph 12 hereof, or in such other manner as may be permitted by law. The Guarantor and the Guaranteed Party each hereby irrevocably waives any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.
15. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreement(s) between the Guaranteed Party and the Guarantor with respect to subject matter hereof. The Guaranteed Party and the Guarantor agree that there are no conditions to the

full effectiveness of this Guaranty.

16. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.
17. Notwithstanding anything to the contrary contained herein or in the Agreement, but excepting any express remedy set for in the Agreement, the Guarantor shall in no event be required to pay or be liable to the Guaranteed Party for any consequential, indirect or punitive damages, opportunity costs or lost profits.
18. Nothing herein is intended to deny to the Guarantor, and it is expressly agreed that the Guarantor shall have and may assert, any and all of the defenses, set-offs, counterclaims and other rights which Seller is or may be entitled arising from or out of the Agreement or otherwise, except for defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of Seller.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreement.

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Acknowledged and Accepted:

Commonwealth Edison Company

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A (Commonwealth Edison Company)**

### **Schedule 1 – Foreign Guarantor Requirement**

An entity that is proposing to serve as a Guarantor under a Guaranty, but that has not been formed or organized under the laws of a state of the United States or the District of Columbia, must meet the following additional requirements in order to be recognized as an acceptable Guarantor:

1. Such entity must deliver a legal opinion (“*Opinion*”) of a law firm or a counsel, in either case who is not an employee of such entity or any of its affiliates or subsidiaries and who is authorized and qualified to practice law and render legal opinions in the foreign jurisdiction in which such entity is formed or organized. The Opinion shall meet the minimum content requirements specified below.
2. Such entity must deliver the sworn certificate of the corporate secretary (or similar or comparable officer) of such entity that the person executing the Guaranty on behalf of such entity has the authority to execute the Guaranty on behalf of such entity and that the governing board of such entity has approved the execution and delivery of the Guaranty.
3. Such entity must deliver the sworn certificate of the corporate secretary (or similar or comparable officer) of such entity that such entity has been authorized by its governing board to enter into agreements of the same type as the Guaranty.
4. Such entity must maintain an agent for acceptance of service of process in the United States. By executing and delivering the Guaranty, such entity agrees that service of any process in any claim or proceeding relating to the Guaranty may be made or served upon such entity by United States mail (postage prepaid).
5. The country in which such entity is domiciled must have a long-term sovereign (or equivalent) rating of AA+/Aa1 from at least two of the following rating agencies: S&P, Moody’s or Fitch. Each rating agency’s sovereign rating for the domicile country will be considered to be the lowest of: country ceiling, senior unsecured government debt, long-term foreign currency sovereign rating, long-term local currency sovereign rating, or other equivalent measure.
6. Such entity must pay for all expenses incurred by Party B related to reviewing and acceptance of the documents to be delivered with the Guaranty as provided in paragraphs 1 to 3 (inclusive) above; provided, however, that such payment shall not exceed \$10,000.

Once the Opinion has been provided and accepted as sufficient by Party B, in lieu of repeating the above process, the proposed Guarantor may re-certify its status in a subsequent procurement event if there have been no changes that would have altered that Opinion. To re-certify, the proposed Guarantor must provide a current letter by its Corporate Secretary (or equal / higher Corporate Officer) that it certifies that there have been no changes in its status which would adversely affect the enforceability of the Guaranty, since the time that the original Opinion was rendered.

Party B shall have sole and absolute discretion, without liability or recourse to the proposed Guarantor or Party A, to evaluate the sufficiency of the documents submitted by such proposed Guarantor pursuant to the requirements of this Schedule 2B. The following minimum requirements are to be met by the Opinion mentioned in paragraph 1 above:

- (a) The Opinion must be in English.
- (b) The Opinion should contain a recitation of the documents that have been reviewed by such counsel as a basis for the opinions expressed. Such recitations should include statements that (i) counsel has reviewed the organizational documents for the entity in question and has reviewed the legal requirements and agreement(s) in question (i.e., the CMC Contract, the Guaranty, the Rules and associated Appendices, Exhibits and Schedules), (ii) counsel has considered any necessary corporate, regulatory or governmental authorizations or approvals that may be required as a condition to the entity entering into and performing the Guaranty and (iii) counsel has reviewed evidence provided by the entity, which evidence has been satisfactorily identified or certified to counsel, of such corporate, regulatory and governmental authorizations or approvals.

- (c) Based upon the review described in the preceding paragraph (b), the Opinion should reach the legal conclusions that: (i) under the law of the jurisdiction where the entity is organized, the necessary steps have been taken to cause the Guaranty, when executed and delivered on behalf of the entity, to become a valid and enforceable obligation of that entity, (ii) the Guaranty, when executed and delivered on behalf of the entity, will be, to the extent that the law of the entity's jurisdiction of organization is applicable to the enforcement of the entity's obligations thereunder, a valid and enforceable obligation of that entity, enforceable against it in accordance with its terms, subject to any enumerated customary exceptions under the law of such jurisdiction, and (iii) under law of the jurisdiction where the entity is organized, the choice of [Illinois][New York] law to govern the Guaranty is valid and enforceable against such entity.

In rendering its opinions within the Opinion, counsel may state that it is not rendering any opinion with respect to the laws of the state of [Illinois][New York], which govern the Guaranty.

The following text provides an illustration of how the requirements in paragraphs (a) through (c) (inclusive) above might be presented in an opinion of counsel:

[Description of transaction background/reason for delivering opinion]

We are familiar with the proceedings taken by [entity] in connection with the Guaranty and the transactions contemplated thereby. In connection with the opinions hereinafter expressed, we have reviewed originals, or copies of originals certified to our satisfaction, of (i) [describe the organizational or governing documents of the entity], (ii) a certificate of the [corporate secretary (or similar or comparable officer)] of [entity] that the person executing the Guaranty on behalf of [entity] has the authority to execute and deliver the Guaranty and that the governing board of [entity] has approved the execution and delivery of the Guaranty, (iii) a certificate of the [corporate secretary (or similar or comparable officer)] of [entity] that [entity] has been authorized by its governing board to enter into agreements of the same type as the Guaranty, (iv) the Guaranty, (v) the CMC Contract, and (vi) [describe any other relevant documents]. We have considered the governmental or regulatory approvals that may be applicable to the execution, delivery and performance of the Guaranty by [entity]. We have also examined such questions of law and have satisfied ourselves as to such matters of fact as we have considered relevant and necessary as a basis for the opinions hereinafter expressed.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications hereinafter stated, it is our opinion that:

1. Under the law of [jurisdiction of organization or formation], [entity] has taken all necessary action to cause the Guaranty, when executed and delivered on behalf of [entity], to become a valid and binding obligation of [entity]
2. The Guaranty, when executed and delivered on behalf of [entity], will be, to the extent that the law of [jurisdiction of organization or formation] is applicable to the enforcement of [entity's] obligations thereunder, the valid and binding obligation of [entity], enforceable against [entity] in accordance with its terms, except as such enforceability may be affected by [describe any exceptions].
3. The choice of the parties to the Guaranty to have the laws of the state of [Illinois][New York] govern the enforceability of the parties' obligations under the Guaranty is valid and enforceable against [entity] under the laws of [jurisdiction of organization or formation].

[Concluding paragraphs and signature]

**EXHIBIT B**

**OPTION 1**

IRREVOCABLE STANDBY LETTER OF CREDIT FORM  
DATE OF ISSUANCE: \_\_\_\_\_

[Address]

Re: Credit No. \_\_\_\_\_

We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish our Irrevocable Transferable Standby Letter of Credit (the "Letter of Credit") in favor of \_\_\_\_\_ (you, the "Beneficiary") for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_), available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by an Authorized Officer of the Beneficiary:

1. "An Event of Default (as defined in the Carbon Mitigation Credit Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "CMC Contract")) has occurred and is continuing with respect to Account Party under the CMC Contract and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]";
2. "An Early Termination Date (as defined in the Carbon Mitigation Credit Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "CMC Contract")) has occurred and is continuing with respect to Account Party under the CMC Contract and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]"; or
3. "The expiration date of your Letter of Credit is less than twenty (20) days from the date of this statement, and Account Party under such Letter of Credit is required, but has failed, to provide a replacement letter of credit or other collateral beyond such expiration date in accordance with, and to assure performance of, its obligations under the Carbon Mitigation Credit Agreement between Account Party and the Beneficiary of the Letter of Credit (as the same may be amended, the "CMC Contract"). No event of default has occurred and is continuing under the CMC Contract with respect to the Beneficiary. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]".

This Letter of Credit shall expire on \_\_\_\_\_. It is a condition of this Letter of Credit that it will be automatically extended for one year periods (to the immediately following anniversary of its then current expiration date) following its then current expiration date, unless at least sixty (60) days before its then current expiration date, we notify you, by electronic means to \_\_\_\_\_ Attn: \_\_\_\_\_ that we do not intend to extend this Letter of Credit; provided that the original notice shall be simultaneously forwarded by overnight courier service to you at the above address; provided further that the failure

of the courier service to timely deliver shall not affect the efficacy of the notice.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid by the Issuing Bank. Partial drawings and multiple presentations are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms and conditions of this Letter of Credit shall be duly honored upon presentation as specified. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission or electronic means. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. Presentation of documents to effect a draw by electronic means must be made to the following email address: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600, or any successor publication thereto (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b), 16(d) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of New York.

With respect to Article 14(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) Business Days, following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or refuse the documents and shall inform the Beneficiary accordingly. With respect to Article 16(d) of the UCP, the notice required in sub-article 16C must be given no later than the banks' close of business on the third Business Day following the date of presentation.

Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide that in the event of an Act of God, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business. Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

We, the Issuing Bank, hereby certify that as of the Date of Issuance of this Irrevocable Standby Letter of Credit our senior unsecured debt is rated "A-" or better by S&P Global Ratings ("S&P") if rated by S&P, "A3" or better from Moody's Investors Service ("Moody's") if rated by Moody's, and "A-" or better by Fitch Ratings ("Fitch") if rated by Fitch. We hereby certify that our senior unsecured debt is rated by at least two of S&P, Moody's, and Fitch. If affiliated with a foreign bank, we further certify we are a U.S. branch office of such foreign bank and that as of the Date of Issuance of this Letter of Credit, our senior unsecured debt meets the ratings requirement of this paragraph.

As used herein, the term "Business Day" means any day on which Federal Reserve Banks and Branches are open for business, such that payments can be effected on the Fedwire system and the term "Authorized Officer" means President, Treasurer, any Vice President or any Assistant Treasurer.

This Letter of Credit is transferable in whole but not in part, in accordance with the procedures in UCP 600 through the submission of a Letter of Full Transfer utilizing one of the attached forms of Letter of Full Transfer (Schedules 1-3), accompanied by the original Letter of Credit and original amendments, if any, but otherwise may not be amended, changed or modified without the express written consent of the Beneficiary, the Issuing Bank and the Account Party.

This Letter of Credit may not be transferred to any person with which U.S. persons are prohibited from doing business under U.S. Foreign Assets Control Regulations or other applicable U.S. Laws and Regulations.



Posted: November 15, 2021

We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.

[The Issuing Bank may add specific contact or additional information or administrative- only comments at this point. However, such comments shall not create or alter any rights that vary from the above language].

[BANK SIGNATURE]

**OPTION 2**

IRREVOCABLE STANDBY LETTER OF CREDIT FORM

DATE OF ISSUANCE: \_\_\_\_\_

[Address]

Re: Credit No. \_\_\_\_\_

We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish our Irrevocable Transferable Standby Letter of Credit (the "Letter of Credit") in favor of \_\_\_\_\_ (you, the "Beneficiary") for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$\_\_\_), available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by an Authorized Officer of the Beneficiary:

1. "An Event of Default (as defined in the Carbon Mitigation Credit Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "CMC Contract")) has occurred and is continuing with respect to Account Party under the CMC Contract and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]";
2. "An Early Termination Date (as defined in the Carbon Mitigation Credit Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "CMC Contract")) has occurred and is continuing with respect to Account Party under the CMC Contract and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]"; or
3. "The expiration date of your Letter of Credit is less than twenty (20) days from the date of this statement, and the Account Party under such Letter of Credit is required, but has failed, to provide a replacement letter of credit or other collateral beyond such expiration date in accordance with, and to assure performance of, its obligations under the Carbon Mitigation Credit Agreement between Account Party and the Beneficiary of the Letter of Credit (as the same may be amended, the "CMC Contract"). No event of default has occurred and is continuing under the CMC Contract with respect to the Beneficiary. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]".

This Letter of Credit shall expire on \_\_\_\_\_. It is a condition of this Letter of Credit that it will be automatically extended for one year periods (to the immediately following anniversary of its then current expiration date) following its then current expiration date, unless at least sixty (60) days before its then current expiration date, we notify you, by electronic means to \_\_\_\_\_ Attn: \_\_\_\_\_ that we do not intend to extend this Letter of Credit; provided that the original notice shall be simultaneously forwarded by overnight courier service to you at the above address; provided further that the failure of the courier service to timely deliver shall not affect the efficacy of the notice.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid by the Issuing Bank. Partial drawings and multiple presentations are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms and conditions of this Letter of Credit shall be duly honored upon presentation as specified. Drafts, document(s) and other

communications hereunder may be presented or delivered to us by facsimile transmission or electronic means. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. Presentation of documents to effect a draw by electronic means must be made to the following email address: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

This Letter of Credit is subject to International Standby Practices (ISP98), International Chamber of Commerce (“ICC”) Publication No. 590, or any successor publication thereto. This Standby Letter of Credit shall be deemed to be made under the laws of the State of New York, including Article 5 of the Uniform Commercial Code, and shall, as to matters not governed by the International Standby Practices (ISP98), be governed by and construed in accordance with the laws of the State of New York, excluding any choice of law provisions or conflict of law principles which would require reference to the laws of any other jurisdiction.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation reopens for business.

Rule 3.14(b) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

We, the Issuing Bank, hereby certify that as of the Date of Issuance of this Irrevocable Standby Letter of Credit our senior unsecured debt is rated “A-” or better by S&P Global Ratings (“S&P”) if rated by S&P, “A3” or better from Moody’s Investors Service (“Moody’s”) if rated by Moody’s, and “A-” or better by Fitch Ratings (“Fitch”), if rated by Fitch. We hereby certify that our senior unsecured debt is rated by at least two of S&P, Moody’s, and Fitch. If affiliated with a foreign bank, we further certify we are a U.S. branch office of such foreign bank and that as of the Date of Issuance of this Letter of Credit, our senior unsecured debt meets the ratings requirement of this paragraph.

As used herein, the term “Business Day” means any day on which Federal Reserve Banks and Branches are open for business, such that payments can be effected on the Fedwire system and the term “Authorized Officer” means President, Treasurer, any Vice President or any Assistant Treasurer.

This Letter of Credit, except as expressly stated herein, is transferable in whole but not in part in accordance with the ICC Publication No. 590. Any transfer request must be presented to us utilizing one of the attached forms of Letter of Full Transfer (Schedules 1-3) together with the original Letter of Credit and original amendments, if any. Transfers to designated foreign nationals and/or specially designated nationals are not permitted as being contrary to the U.S. Treasury Department or foreign assets control regulations.

Except for the transfer, this letter of credit otherwise may not be amended, changed or modified without the express written consent of the Beneficiary, the Issuing Bank, and the Account Party.

We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.

[The Issuing Bank may add specific contact or additional information or administrative-only comments at this point. However, such comments shall not create or alter any rights that vary from the above language].

[BANK SIGNATURE]

**Schedule 1 to Exhibit B**

**LETTER OF FULL TRANSFER**

\_\_\_\_\_, 20\_\_\_\_

To:  
Bank Address

Ladies/Gentlemen:

RE: Credit \_\_ Issued By \_\_\_\_\_

\_\_\_\_\_

For value received, the undersigned beneficiary hereby irrevocably transfers to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such Letter of Credit and original amendments, if any, are returned herewith, and we ask you to endorse the Letter of Credit and amendments on the reverse thereof, and forward these direct to the transferee with your customary notice of transfer.

Enclosed is remittance of \$ \_\_\_\_\_ in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE AUTHENTICATED

The signatory/ies of this concern is/are  
authorized to withdraw corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

Yours very truly,

\_\_\_\_\_  
Signature of Beneficiary

SIGNATURE AUTHENTICATED

The signatory/ies of this concern is/are  
authorized to withdraw corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
Signature of Transferee

**Schedule 2 to Exhibit B**

**LETTER OF FULL TRANSFER**

Request for a Full Transfer of the below  
referenced Standby Letter of Credit

[Name of the Issuing Bank]

Date: \_\_\_\_\_

Reference: \_\_\_\_\_

(Issuing Bank's Letter of Credit Number)

To: \_\_\_\_\_

"Transferring Bank"

\_\_\_\_\_

(Advising Bank's Reference Number, if applicable)

We, the undersigned "First Beneficiary", hereby irrevocably transfer all of our rights to draw under the above referenced Letter of Credit ("Credit") in its entirety to:

\_\_\_\_\_  
(Print Name and complete address of the Transferee) "Second Beneficiary"

Advise through:

\_\_\_\_\_  
(Print Name/address of the Second Beneficiary's Bank, if known—  
if left blank, the Transferring Bank will select the advising bank)

In accordance with UCP 600 Article 38 or ISP 98, Rule 6 regarding transfer of drawing rights (whichever set of rules the Credit is subject to), all rights of the undersigned First Beneficiary in such Credit are transferred to the Second Beneficiary. The Second Beneficiary shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the Second Beneficiary without necessity of any consent of or notice to the undersigned First Beneficiary.

The original Credit, including amendments to this date, is attached and the undersigned First Beneficiary requests that you endorse an acknowledgment of this transfer on the reverse thereof. The undersigned First Beneficiary requests that you notify the Second Beneficiary of this Credit in such form and manner as you deem appropriate, and the terms and conditions of the Credit as transferred.

Enclosed is remittance of \$[\_\_\_\_\_] in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

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First Beneficiary represents and warrants to Transferring Bank that (i) our execution, delivery, and performance of this request to Transfer (a) are within our powers and have been duly authorized (b) constitute our legal, valid, binding and enforceable obligation (c) do not contravene any charter provision, by-law, resolution, contract, or other undertaking binding on or affecting us or any of our properties and (d) do not require any notice, filing or other action to, with, or by any governmental authority (ii) we have not presented any demand or request for payment or transfer under the Credit affecting the rights to be transferred, and (iii) the Second Beneficiary's name and address are correct and complete and the transactions underlying the Credit and the requested Transfer do not violate applicable United States or other law, rule or regulation, including without limitation U.S. Foreign Asset Control regulations.

In the event that we fail to remit to you, following your written demand, any funds paid to us despite the Transfer, we agree to reimburse you for your reasonable costs of collecting those funds from us.

The Effective Date shall be the date hereafter on which Transferring Bank effects the requested transfer by acknowledging this request and giving notice thereof to Second Beneficiary.



WE WAIVE ANY RIGHT TO TRIAL BY JURY THAT WE MAY HAVE IN ANY ACTION OR PROCEEDING RELATING TO OR ARISING OUT OF THIS TRANSFER.

<p>Sincerely Yours</p> <hr/> <p>(Print Name of First Beneficiary)</p> <hr/> <p>(Print Authorized Signer's Name and Title)</p> <hr/> <p>(Authorized Signature)</p> <hr/> <p>(Print Second Authorized Signer's Name and Title, if required)</p> <hr/> <p>(Second Authorized Signature, if required)</p> <hr/> <p>(Telephone Number)</p>	<p>SIGNATURE GUARANTEED Signature(s) with title(s) conform(s) with that/those on file with us for this individual, entity or company and signer(s) is/are authorized to execute this agreement</p> <hr/> <p>(Print Name of Bank)</p> <hr/> <p>(Address of Bank)</p> <hr/> <p>(City, State, Zip Code)</p> <hr/> <p>(Print Name and Title of Authorized Signer)</p> <hr/> <p>(Authorized Signature)</p> <hr/> <p>(Telephone Number)</p> <hr/> <p>(Date)</p>
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**Schedule 3 to Exhibit B**

**LETTER OF FULL TRANSFER**

\_\_\_\_\_, 202\_\_

[TRANSFEROR]

Re: Irrevocable Standby Letter of Credit No. \_\_\_\_\_

We request you to transfer all of our rights as beneficiary under the Letter of Credit referenced above to the Transferee, named below:

Name of Transferee

Address

By this transfer all our rights as the transferor, including all rights to make drawings under the Letter of Credit, go to the transferee. The transferee shall have sole rights as beneficiary, whether existing now or in the future, including sole rights to agree to any amendments, including increases or extensions or other changes. All amendments will be sent directly to the transferee without the necessity of consent by or notice to us.

We enclose the original letter of credit and any amendments. Please indicate your acceptance of our request for the transfer by endorsing the letter of credit and sending it to the transferee with your customary notice of transfer.